

## **BOARD OF ZONING APPEALS**

### **MEETING MINUTES**

**JUNE 26, 2014**

#### **AGENDA**

- 1. Accessory Structures Variance-Masonbrink Residence 3168 Lilly-Mar Ct  
14-051V Variance  
(Tabled 5 – 0)**
- 2. Rear Yard Setback Variance 6290 Belvedere Green Blvd  
14-052V Variance  
(Approved 5 – 0)**
- 3. Bahnub Residence- Rear Yard Setback Variance 6849 Holbein Drive  
14-055V Variance  
(Approved 5 – 0)**

Chair Brett Page called the meeting to order at 6:26 p.m. Other Board members present were Rion Myers, Patrick Todoran, Brian Gunnoe, and James Zitesman. City representatives present were Tammy Noble-Flading, Marie Downie, Nichole Martin, Joanne Shelly, Jonathan Staker, and Flora Rogers.

#### **Motion and Vote**

Mr. Page moved, Mr. Zitesman seconded, to accept the documents into the record. The vote was as follows: Mr. Myers, yes; Mr. Todoran, yes; Mr. Gunnoe, yes; Mr. Zitesman, yes; Mr. Page, yes. (Approved 5 – 0)

#### **Communications**

Tammy Noble-Flading introduced new staff members who were present at the meeting. She introduced Joanne Shelly, Landscape Design Architect and Nicki Martin, Planning Assistant and asked the Board to welcome them to Dublin.

#### **Administrative Business**

Mr. Page swore in those who intended to address the Board in regards to any of the cases on this Agenda.

#### **NEW CASES:**

- 1. Accessory Structures Variance-Masonbrink Residence 3168 Lilly-Mar Ct  
14-051V Variance**

Marie Downie said this is a request for a non-use area variance from Section 153.074(4)(d) to permit a garage that exceeds the maximum projection of more than 12 feet from the adjacent vertical wall plane. The site is located on the north side of Lily Mar Court East, approximately

240 feet east of Braxmar Place. The site is zoned R-2, Limited Suburban Residential District, and is located within the Sunnydale Subdivision.

Ms. Downie said there are a number of mature trees on the lot as well as vegetation between the existing garage and the western property line with approximately 3 to 4 feet of contour change.

Ms. Downie said the Section 153.074 states that garage door openings total 18 feet or less shall not make up more than 35 percent of the linear distance of the front elevation, nor project more than 12 feet from the adjacent vertical wall plane. She said the application is proposing a garage that projects 28 feet when only a 12 foot projection is permitted. She said the proposed garage exceeds the requirements by 16 feet.

Ms. Downie said all three of the review criteria must be met. She said the special conditions criteria is not met due to the minor change in grade to the west of the existing garage. She said Planning as well as Engineering does not feel that this is an extraordinary nor unreasonable area of the site that would restrict the applicant from using the space. She said the site conditions are not an action of the applicant therefore the second criteria is met. She said the garage requirements are intended to create structures that are proportional in size and located to the side or rear of the primary structure and the approval of this variance would impair the intent of the requirements therefore the third criteria is not met.

Ms. Downie said two of the four review standards must be met. She said the grade change between the structure and the property line does not deprive the applicant of alternative options therefore the criteria is not met. She said there are many residential lots in the City that have similar grade changes, therefore, it has the possibility to be recurrent in nature. She said no delivery of governmental services would be effected and there are other options available that would meet the applicable requirements.

Ms. Downie said the proposed request for variance does not meet the appropriate standards therefore Planning is recommending disapproval of this variance.

Mr. Zitesman asked how it fits within the width of the entire structure and percentages in the Code.

Ms. Downie said they have in the past taken the entire garage elevation into account for the 35 percent, however, the applicant has pointed out the fact that there are some discrepancies of how the Code is interpreted. She said the planning report is written with the question of both the percentage of the front elevation as well as the distance from the adjacent vertical wall. However, they are now just looking at the 12-foot projection since there are some discrepancies in interpretation of the Code.

Ms. Noble-Flading said staff has conceded that the language is awkward at best and they are moving forward with the 12 feet as it is the intent of the Code to not create a disproportionate garage to the house and will be looking at a Code modification to clarify.

Mr. Gunnoe said the adjacent vertical wall plane is the 13 foot wall.

Ms. Noble-Flading said it is the front façade of the house and they are proposing a garage that projects 28 feet.

Mr. Page said the intent is to avoid a garage dominated front.

Ms. Noble-Flading agreed.

Mr. Zitesman asked if the western space adjacent to the home would have space to permit expansion of the garage in that direction.

Ms. Downie said there is an eight foot setback and there would be a significant amount of area between the existing garage and the property line.

Steve Masonbrink, 3168 Lilly-Mar Court, said that the 35 percent requirement is conflicting with the following paragraph that indicates 45 percent and thought his proposal could fall within that requirement. He said the proposed garage is to provide the ability to work on vehicles, restore vehicles and provide parking inside the garage. He said the dimensions are 32 X 28 to provide space for equipment, work room and additional parking space. He said the garage that he is proposing is larger than a standard 20 X 20 building. He said he currently has a front loading garage that will be converted into a game room with a pool table. He said the location of the structure makes it difficult to locate the proposed garage in any other location on the lot. He said he has an unusual setback from the road that allows more room for the garage to project forward and several mature trees that he is trying to preserve. He said as proposed they will only need to remove one tree, but if they move the proposed garage it is possible they will lose a few more mature trees.

Linda Masonbrink said there were 2 mature trees, a large tree and an ornamental dogwood tree, that would be removed with the alternative proposal.

Mr. Masonbrink said there is topography fall of about 3-foot between the house and the property line which makes it difficult for any other possibilities for placement on the lot. He said the intent aspect is not understood and read the statement from the planning report. He said granting this variance would not cause adverse effects to property improvements in the vicinity. He read the intent statement further "or will not materially impair the intent and process of the requirements" and said he does not understand the intent of the regulation to not allow to exceed more than 12 feet.

Ms. Noble-Flading said the regulation is to limit the projection in front of the front façade of the house so that the garage is not the predominant feature of the house. She said it is intended to place the garage to the side or rear to become cohesive with the front façade of the house.

Mr. Masonbrink said the regulation is for front loaded garages and not side loaded garages and interprets the regulation as being able to have a side loaded garage 8 feet from the property line and go 60 feet deep and all the way across the front of the house.

Mrs. Masonbrink said there is a huge mass difference between the house and the garage which does not make sense and she doesn't understand the regulation.

Ms. Noble-Flading said they were referring to the appearance section of the Zoning Code and the section for this review is applicable to all garages. She said there are two sections of the Code that is exactly the same and this particular section applies to any garage for residential properties.

Mr. Page asked who created the design of the proposed garage.

Mr. Masonbrink said he has personally been working on it for years to be able to work on his car in the garage rather than in the driveway.

Mrs. Masonbrink said they have also consulted with a contractor.

Mr. Page asked if they had any conversations with Planning with the proposal prior to submitting a variance request because there are questions being asked that could have been answered prior to appearing before the Board.

Mr. Masonbrink said he has talked with Tammy Noble-Flading and Marie Downie and prior conversations with Jennifer Rauch and has tried to push the project forward to build. He said he would like to get the proposal before the Board, but he doesn't have all the answers at this time.

Mr. Page said they will have to make a decision based on the proposal and with that in mind they can allow the applicant to table their request if they want to examine all options prior to a vote or ask the Board to make a final vote.

Mr. Masonbrink said he has other questions and may need to re-evaluate the proposal and asked if there were opinions from the board of the proposal as submitted.

Mr. Page said they cannot provide plans for the applicant since their job is to provide an opinion based on the Code and look at variances of the Code in relation to the particular proposal. He said it is Planning's job to work with them more thoroughly if they would like to examine alternative proposals to put a best plan forward to the Board and there is information within the planning report that give other options.

Mr. Gunnoe said they are in a great position to explore alternative options on this property.

Mr. Page said his opinion is if there are other options available he should examine those thoroughly and find an option that may fit within the Code requirements.

Mrs. Masonbrink said one alternative would require a variance also and asked which variance would be better.

Ms. Noble-Flading said the point that staff is trying to make is that situating garage completely to the side of the house regardless of the grade change is a potential possibility that aligns the garage with the forefront of the house and gets the proportionality corrected.

Mr. Masonbrink said the grade change option would require a new driveway which would eliminate additional trees.

Mrs. Masonbrink said the side loaded option would cause more pavement and runoff toward the neighbor's property which is a concern of the neighbor and the builder. She said the structure would be close to the property which causes concerns.

Ms. Noble-Flading said they have talked to the Engineering Department and they do not believe the slope is anything that is unusual or can contractually overcome, however the new driveway would have to be discussed further because the access point from the street will remain the same and how much they delineate from the existing curb cut to the garage might change.

Mr. Masonbrink requested to table this application to check with Engineering and express his concerns.

### **Motion and Vote**

**Motion:** Mr. Myers made the motion, seconded by Mr. Gunnoe, to table this variance at the request of the applicant. The vote was as follows: Mr. Todoran, yes; Mr. Page, yes; Mr. Mr. Zitesman, yes; Mr. Gunnoe, yes; and Mr. Myers, yes. (Tabled 5 – 0)

## **2. Rear Yard Setback Variance 14-052V**

## **6290 Belvedere Green Blvd Variance**

Tammy Noble-Flading said this is a request for a variance from Section 153.053(2)(a) to permit a deck and gazebo that will be located in the rear yard setback on a property zoned PLR, Planned Low-Density Residential and is located within the Belvedere subdivision. The site is located on the north side of Belvedere Green Boulevard, approximately 560 feet west of Avery Road.

Ms. Noble-Flading said there is a single-family, residential structure with an existing at-grade patio that encroaches into the existing rear yard setback as well as a 25 foot no build zone. She said the site also has a putting green to the front of the driveway. She said the applicant is proposing to remove the existing patio and replace it with a deck with a gazebo/sunroom. She stated that the development text for the Belvedere subdivision requires a percentage of lot depth for rear yard setback and in this instance, the structures will encroach 9.5 feet in the rear yard setback.

Ms. Noble-Flading said the applicants' house is located four feet from the rear yard setback. She said the house is a side-loaded garage that results in the house is situated further back than the minimum front building line requires. She stated that this results in the house being located to the rear of the site. She said the applicants were not the original owners of the house and their actions have not contributed to the special conditions. She said the rear yard setback is meant to buffer properties that are adjacent to the site and in this instance, the site has substantial amount of landscaping and buffering to the rear of the property.

Ms. Noble-Flading said if they were to grant this variance it would not allow the applicant a special privilege and requiring a patio that is within four feet of the house creates a minimal

patio area that is possibly unusable. She review the remaining criteria and stated that Planning is recommending approval for the application.

Mr. Page said as a homeowner if they meet the Code that doesn't seem to be a functional space for a patio.

Emily Williams, 6290 Belvedere Green, introduced her husband Jerry and said the reason for the back yard project is because they tend not to use their front yard because of the speed of traffic through Belvedere Green. She said the deck with gates will contain the kids and pets for safety and enhance their home. She said they have skin cancer family issues and the sunroom would like the opportunity to be outside without having to be outside in the sun. She said the deck will enhance the aesthetics of the property and have spoken to their neighbors and all of them support their plan and offered to attend the meeting to show support.

Mr. Zitesman asked how long they have lived at this residence.

Ms. Williams said approximately 10 years.

Mr. Page asked if there were anyone from the public that would like to provide a comment regarding this application. [There were none.]

Mr. Zitesman said they have seen this before and granting the variance would be consistent with past practices. He said during his site visit he could appreciate their improvements with limited space and thought this was consistent to the adjacent properties.

Mr. Gunnoe said he agrees with the recommendation.

Mr. Page said that 9 feet is not feasible for usable space and the request for 14 feet is an enhancement and is appropriate for the area.

### **Motion and Vote**

**Motion:** Mr. Page made the motion, seconded by Mr. Myers, to approve this variance to Zoning Code Section 153.053(2)(A) to allow a deck and gazebo that encroaches into the rear yard setback of a property zoned PLR, Planned Low-Density Residential District because it meets all the required variance standards and review criteria. The vote was as follows: Mr. Gunnoe, yes; Mr. Zitesman, yes; Mr. Todoran, yes; Mr. Myers, yes; and Mr. Page, yes. (Approved 5 – 0)

### **3. Bahnub Residence- Rear Yard Setback Variance 14-055V**

### **6849 Holbein Drive Variance**

Tammy Noble-Flading said this is a request for a variance from Section 153.053(2)(a) to permit a deck and patio that will be located with the rear yard setback on a property zoned PLR, Planned Low-Density Residential and is located within the Post Preserve subdivision. The site is located on the south side of Holbein Drive, approximately 510 feet west of Post Preserve Boulevard.

Ms. Noble-Flading said this is a residential property that is requesting a variance to the rear yard setback. She said the site has a 30-foot rear yard setback and the applicant is proposing to construct a deck and patio that would encroach six feet into the setback.

Ms. Noble-Flading said they have concluded that part of the intent of a rear yard setback is to provide a buffer from a residential properties and this property actually has a park to the rear which is a dedicated open space that cannot be developed. She said the applicant is not the original owner of the property and that the developer chose the layout of the site. She said that the special conditions of the site were not attributes to the actions or inactions of the applicant. She said the applicant has an unusual situation where they are limited to the four-feet of construction to the rear of the property to the second story door that needs more room to provide access to the rear yard. She said their analysis, a four foot wide deck or stairs would look disproportionate to the structure. She reviewed the remaining criteria and stated that Planning is recommending approval of the application.

Mr. Myers asked when there is a subdivision that gets built with a 20 feet easement or no build zone, why is an additional rear yard setback required.

Ms. Noble-Flading said the requirements such as easements, no build zoned, and rear yard setbacks have different purposes. She said easement are to protect and maintain utilities and no build zones are to protect existing natural landscaping. She said rear yard setbacks are met to create open view sheds that are consistent amongst properties.

Mr. Zitesman said the builder doesn't disclose to the buyers that they have limited the space in the rear yard because the prospective buyers would likely not buy the home.

Mr. Page said it brings up a good point to have the City talk to developers about contemplating outdoor space when designing the subdivisions.

Mr. Page asked if the applicant would like come forward.

Brent Bahnhub, 6849 Holbein Drive, said they tried to balance the spirit of the Zoning Code with a small but practical space that could be used to the rear of the house. He stated that a patio and deck that is 10-feet wide is a usable amount of space.

Mr. Myers said asking for the 10-feet is not unreasonable.

Mr. Gunnoe agreed.

Mr. Page asked if there were any questions of the applicant. [There were none.]

Mr. Myers said they have approved similar requests and there was no reason this application would be any different.

Mr. Zitesman said the size of the house is significant.

Mr. Myers said the plans looks like it will be beautiful.

## **Motion and Vote**

**Motion:** Mr. Page made the motion, seconded by Mr. Myers, to approve this variance to Zoning Code Section 153.053(2)(A) to allow a second-story deck and patio to encroach into the rear yard setback 8-feet because it meets all the required variance standards and review criteria. The vote was as follows: Mr. Zitesman, yes; Mr. Todoran, yes; Mr. Gunnoe, yes; Mr. Myers, yes; and Mr. Page, yes. (Approved 5 – 0)

Mr. Page said the next meeting is scheduled for July 24, 2014, and adjourned the meeting at 7:33 p.m.

As approved by the Board of Zoning Appeals on October 23, 2014.